

Federal Leave Programs



GRC Perspective

November 2000

Family Friendly Leave Options



- Family Medical Leave Act (FMLA)
- Expanded Family and Medical Leave Policies
- Bone Marrow/Organ Donation
- Annual Leave
- Sick Leave
- Family Friendly Sick Leave
- Sick Leave For Adoption
- Advanced Sick Leave
- Leave Transfer Program
- Leave Without Pay (LWOP)

Changes to Leave Regulations/procedures



- Sick Leave Regulations Revised to Expand Use for Family Care Purposes
- FMLA Regulations Modified to Provide Clarification
- OHR-13 Delegations of Authority Published

Supervisory Responsibilities



- Monitor and approve time and attendance
- Approve leave requests in accordance with legal, regulatory and internal procedures
- Assist employees in planning and scheduling leave
- Take appropriate corrective action when misuse is identified
- Inquire if employee is requesting leave under FMLA*

Employee Responsibilities



- Request and use leave in accordance with legal, regulatory and internal procedures
- Invoke Entitlement to FMLA in accordance with requirements
- Plan and schedule leave to avoid disruption to the work

Family and Medical Leave Act *(FMLA)*



- Employees are Entitled to 12 administrative weeks of unpaid leave during any 12 month period for:
 - Birth of child and care of newborn (within 1 year of birth)
 - Adoption or Foster Care (within 1 year after placement)
 - Care of spouse, son, daughter or parent with serious health condition
 - Serious health condition of employee

FMLA

Serious Health Condition

- Illness, injury, or physical/mental condition
 - Requires inpatient care OR
 - Continuing treatment by health care provider
 - > **Includes:** cancer, heart attacks, severe injuries, pregnancy and childbirth
 - > **Does not include** short term conditions for which treatment and recovery are brief
 - routine exams or illnesses treated with over-the-counter medication/bed-rest
 - cold, flu, earaches, upset stomach, headaches, routine dental problems

FMLA Leave Entitlement

- Employee must invoke entitlement
- May substitute paid leave for unpaid leave (but may not be done retroactively)
- Employee must be restored to same or equivalent position at end of FMLA period
- May use FMLA intermittently
 - if medically necessary (serious health condition) and employee requests
 - for birth/adoption only if Center agrees

FMLA Leave Entitlement

- May not retroactively invoke entitlement unless*
 - employee and personal representative is physically/mentally incapable of invoking entitlement during entire period of absence
 - employee can provide medical documentation explaining why
 - employee invokes entitlement within 2 work days of returning to work

FMLA Notification Requirements

- To Invoke Entitlement to FMLA
 - use SF-71 to document
 - provide supporting evidence
- Advance Notice
 - Foreseeable: 30 days advanced notice
 - Unforeseeable: Reasonable notice
- Provisional leave granted until all documentation submitted

FMLA Notification Requirements

Supporting Evidence

- Medical certification is required for requests for FMLA for serious health conditions
 - Second/Third opinion may be required
 - Center may require periodic re-certification
- Supporting evidence is required for requests for FMLA for birth or adoption/foster care
- Return to work certificate is required if
 - on leave for >10 consecutive work days or
 - due to contagious illness

FMLA Notification Requirements

Medical Certifications



- Submit with SF-71
- If not, must be provided within 15 calendar days after requested*
- If not practical to meet this deadline - must submit within reasonable period not to exceed 30 calendar days*

FMLA Notification Requirements

Medical Certifications

- DoL has form that may be used
- Information to be addressed:
 - Date serious health condition commenced
 - If employee incapacitated for duty & duration
 - Medical facts - treatment/exams
 - For family care: Family needs care, what type and estimate of time needed
 - For intermittent leave: treatment schedule or chronic condition situation

FMLA Notification Requirements

Non-Compliance



- If employee does not comply with notification/medical certification requirement*
 - Employee not entitled to FMLA or employment/benefit protections
 - Center may charge AWOL for period of absence
 - Center may allow employee to request other leave for period of absence

Other Family/Medical Leave Options

- Supervisors may grant up to 24 hours LWOP to participate in
 - in school activities
 - routine family medical appointments, &
 - elderly relatives health or care needs
- Bone marrow/Organ Donor
 - Up to 30 days of paid leave - organ donor
 - Up to 7 days of paid leave - bone marrow donor
 - Procedures
 - excused absence
 - supporting documentation required
 - Supervisor approves up to 7 days

Annual Leave



- Purpose
 - annual vacation period
 - personal and emergency situations
- Earning Annual Leave
 - < 3 years service: 104 hours per year
 - 3 - 14 years service: 160 hours per year
 - 15 or more years service: 208 hours per year

Annual Leave



- All Annual Leave to be earned is advanced at beginning of leave year
- Employee has right to use annual leave subject to supervisory approval
- SF-71 may be used to request AL
- Immediate supervisors are authorized to approve annual leave

Annual Leave



- No more than 240 hours of Annual Leave may be carried over to next leave year
- Leave may be restored if :
 - leave was scheduled before the start of the third pay period prior to end of leave year AND
 - the leave was lost due to
 - administrative error
 - exigency of public business
 - sickness

Annual Leave



- Restoration requests may be submitted to the Personnel Officer for approval **after** the leave is lost
- Exigency of Public Business must be approved by Deputy Director for Operations **before** the leave is cancelled
- Exigency of Public Business is a
 - work situation or operational demand of such major importance that cancellation of leave is required AND
 - failure to cancel leave will result in serious mission impact

Expanded Sick Leave Provisions



- Personal Sick Leave
- Family Friendly Sick Leave
- Sick Leave For Adoption
- Advanced Sick Leave

Personal Sick Leave

- Full time employees earn 104 hours of sick leave per leave year
- **Personal Sick leave may be used:**
 - when you are incapacitated by illness/injury
 - when you receive medical, dental, or optical exam or treatment
 - when you would jeopardize health of others due to exposure of communicable disease

Family Friendly Sick Leave



- Employee may use sick leave:
 - to attend to family member who is receiving medical/dental exams or treatment
 - for bereavement purposes OR
 - provide for family member with serious health condition
- **Family Friendly Sick Leave is NOT an Additional Leave Category**

Family Friendly Sick Leave Limitations



- Up to 40 hours (FT) → Care for incapacitated family member or bereavement
- Up to 13 days/104 hours per leave year (FT) → Must maintain balance of 80-hours to care for incapacitated family member/bereavement
- Up to 12 weeks/480 hours per leave year (FT)* → Must maintain balance of 80-hours to care for family member with serious health condition*

Family Friendly Sick Leave Definitions



- Family member:
 - spouse and his/her parents
 - children and their spouses
 - parents
 - siblings and their spouses
 - anyone related by blood or affinity whose close association with employee is equivalent to family relationship

Family Friendly Sick Leave Definitions



- Family Care
 - giving care or other wise attending to a family member incapacitated by physical or mental illness, injury, pregnancy or childbirth
 - giving care or otherwise attending to a family member as a result of medical, dental or optical exam or treatment

Family Friendly Sick Leave Definitions



- Bereavement
 - To make arrangements necessitated by death of family member or attend funeral
 - Includes making funeral arrangements, reading of will, or attending religious rituals (up to 1 year after death)

Sick Leave for Adoption

- Unlimited sick leave may be used for purposes related to the adoption of a child
 - appointments with adoption agencies, social workers, & attorneys
 - court proceedings
 - required travel
- Bonding with child is not included unless absence from work is ordered by court

Advanced Sick Leave



- Up to 30 days may be advanced for personal sick leave if employee:
 - Has 0 accrued sick leave balance
 - Has serious disability/illness
 - Will be absent from work for extended period (> 3 consecutive calendar days)
 - Is expected to return to work

Advanced Sick Leave



- Up to 40 hours may be advanced for family care or bereavement if:
 - Employee has 0 accrued sick leave balance
 - Family member has serious illness/bereavement
 - Employee will be absent for extended period
 - Is expected to return to work
- Leave advanced plus any leave used for family care/bereavement will not exceed regulatory limit of 40 hours per leave year

Sick Leave Requests/Approval

- Sick Leave is approved by immediate supervisors
 - must be requested in advance for prearranged appointments
 - employee must notify supervisor as soon as practicable (normally within 2 hours of scheduled tour) for emergency
 - Medical certificates may be required after 3 days
 - May use SF-71 to request sick leave

Sick Leave Requests/Approval



- Advanced Sick Leave must be requested in writing and include:
 - hours or days required
 - reason for advance
 - medical certificate supporting request
- Submitted through supervisory channels to Personnel Officer for approval

Questions and Answers on Expanded Sick Leave

- Are employees entitled to use 13 days of sick leave for family care/bereavement plus 12 weeks to care for family member with serious health condition?
- NO. If an employee used any portion of the 13 days of sick leave for general family care, that amount must be subtracted from 12 weeks.
- An employee may not use more than 12 weeks of SL per year for all family care purposes.

Questions and Answers on Expanded Sick Leave

- Can a pregnant employee use sick leave for childbirth and to care for the newborn?
- SL for time incapacitated.
- Up to 13 days SL for well-child appointments/minor illnesses.
- Up to 12 weeks of SL to care for newborn with serious health condition.
- SL may not be used to care for a healthy newborn. LWOP or AL may be used for these purposes.

Questions and Answers on Expanded Sick Leave

- Can a father use sick leave for childbirth and care of newborn?
 - Up to 12 weeks to care for mother (for incapacitation).
 - Up to 13 days SL for well-child appointments/minor illnesses.
 - Up to 12 weeks of SL to care for newborn with serious health condition.
 - SL may not be used to care for a healthy newborn. LWOP or AL may be used for these purposes.

Questions and Answers on Expanded Sick Leave

- Can adoptive parents use sick leave to care for a newly adopted child?
- If adoption agency/court does not impose requirement to be home with adoptive child, SL may not be used for such purposes - AL or LWOP would be appropriate.
- Up to 13 days SL for well-child appointments/minor illnesses.
- Up to 12 weeks of SL to care for newborn with serious health condition.

Questions and Answers on Expanded Sick Leave



- Does new sick leave policy permit an employee to take a total of 12 weeks of sick leave in addition to 12 weeks of LWOP under FMLA?
- Yes. There is no requirement that an employee invoke entitlement to FMLA.

Leave Transfer Program



- Allows Federal Employees to donate Annual Leave to other employees who are having a personal or family medical emergency
- Functions as a short-term disability income protection program

Leave Transfer Program

Definitions



- Family Member
 - Spouse and his or her parents
 - Children and their spouses
 - Parents
 - Brothers and Sisters and their spouses
 - Any individual related by blood or affinity whose close association is equivalent of a family relationship

Leave Transfer Program

Definitions



- Medical Emergency
 - medical condition
 - requires employee's absence for prolonged period or time
 - results in loss of income because of unavailability of paid leave

Leave Recipient Requirements



- All accrued annual, sick leave, credit hours and compensatory time must be exhausted (if used for family member medical emergency all family friendly sick leave available must be exhausted)
- Employee must be suffering medical emergency for at least 24 hours
- Employee must apply in writing

Leave Recipient Requirements



- May use annual leave transferred only for purpose of approved medical emergency
- Leave may not be transferred after a medical emergency terminates
- Leave recipients may accrue up to 40 hours of annual leave and 40 hours of sick leave in separate accounts while receiving donated leave

Leave Recipient Requirements



- Requests must be submitted through immediate supervisor to Personnel Officer, for approval and include:
 - name, title, grade of recipient
 - reason for need including nature, severity and beginning and ending dates of medical emergency
 - medical certification to support request

Leave Recipient Requirements



- Written notification of Approval/Disapproval will be provided within 10 days
- Recipient responsible for requesting donors
- Recipient responsible for notifying OHR if medical emergency terminates or needs to be extended

Leave Donor Requirements

- May donate no more than one-half of annual leave would accrue in leave year
- Employee with use or lose leave may donate lesser of:
 - one-half of annual leave would accrue OR
 - number of hours remaining in leave year for which employee is scheduled to work

Leave Donor Requirements



- Must submit application and specify recipient
- May not donate to immediate supervisor
- Unused leave will be returned to donor

Leave Without Pay



- Leave Without Pay is:
 - temporary non-pay status
 - an approved leave category
 - granted based on an employee's request
 - granted only when it is considered to be in the best interest of NASA or compelling humanitarian considerations
 - matter of administrative discretion in most cases

Leave Without Pay

- Requests for less than 61 calendar days may be approved by supervisors or under FMLA*
- Requests for 61 calendar days or more must be approved by Personnel Officer*
- SF-71 may be used to request LWOP
- Must use all accrued annual leave first except for FMLA leave

Information Available

- Lori Pietravoia, Leave Program Manager, OHR Program and Policy Office, 3-2506
- Carol Mehallick, Employee Relations Specialist, OHR Operations Office, 3-2507
- OHR Web Site:
<http://www.grc.nasa.gov/WWW/OHR>
- OPM Web Site: <http://www.opm.gov>
- Leave Handbook 3630.1
- Union Contracts